

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

David Richard Walker, Jr., #188417)	C/A No. 8:16-817-JMC-JDA
)	
Plaintiff,)	
)	REPORT AND RECOMMENDATION
vs.)	
)	<i>for dismissal</i>
Brian "Jay" Koon, Sheriff;)	
Kevin Jones, Major,)	
<i>both of Lexington County Sheriff's Dept. e.g.)</i>)	
<i>Lex. County Detention Center,</i>)	
)	
Defendants.)	
)	

This is a civil action filed by David Richard Walker, Jr. ("Plaintiff"), proceeding pro se, pursuant to 42 U.S.C. § 1983. At the time he filed the action, Plaintiff was detained in the Lexington County Detention Center ("LCDC"). For the reasons explained below, it is recommended that this action be dismissed.

On April 14, 2016, this Court entered an Order wherein it granted Plaintiff's motion to proceed *in forma pauperis*, refused to authorize issuance of service of process, and instructed Plaintiff that he must keep the Court apprised of his current address. [Doc. 10.] Specifically, Plaintiff was instructed as follows:

You are ordered to always keep the Clerk of Court advised **in writing (300 East Washington Street, Room 239, Greenville, South Carolina 29601)** if your address changes for any reason, so as to assure that orders or other matters that specify deadlines for you to meet will be received by you. If as a result of your failure to comply with this Order, you fail to meet a deadline set by this Court, **your case may be dismissed for violating this Order.** Therefore, if you have a change of address before this case is ended, you must comply with this Order by immediately advising the Clerk of Court in writing of such change of address and providing the Court with the docket number of all pending cases you have filed with this Court. Your failure to do so will not be excused by the Court.

[*Id.*]

It appears that Plaintiff received this Court's April 14, 2016, Order and a Report and Recommendation for summary dismissal because he filed objections to the Report and Recommendation and several other motions. [See Docs. 13, 16, 18.] On January 30, 2017, the Honorable United States District Judge J. Michelle Childs sustained one of Plaintiff's objections to the Report and Recommendation and liberally construed that Plaintiff sought to amend the Complaint. [Doc. 25.] This Court directed Plaintiff to file an amended complaint by February 10, 2017, or his claim will be subject to dismissal; and the matter was remanded to the undersigned for a proceeding consistent with this ruling. [*Id.*]

The Clerk of Court mailed the January 30, 2017, Order to Plaintiff; however, on February 13, 2017, the mailed was returned to this Court for the reasons unable to forward, undeliverable, no longer at this address. [Doc. 28.] In fact, previously on September 26, 2016, after the Clerk of Court mailed a different order to Plaintiff, it was returned to sender because Plaintiff was no longer at the address. [Doc. 22.]

Accordingly, it appears that Plaintiff changed his address but failed to keep the Clerk of Court advised in writing that his address had changed, although he had been instructed to do so. At this time, Plaintiff still has not provided the Court with a new address at which he receives mail, and the record indicates no attempt by Plaintiff to contact the Court since filing a motion on June 27, 2016. Additionally, Plaintiff failed to file an amended complaint by February 10, 2017. Therefore, Plaintiff has failed to prosecute this case and has failed to comply with this Court's Orders. It is recommended that this case should be dismissed pursuant to Rule 41 of the Federal Rules of Civil Procedure. See *Link v. Wabash R.R. Co.*,

370 U.S. 626, 629–33 (1962). **Plaintiff’s attention is directed to the important notice on the next page.**

February 15, 2017
Greenville, South Carolina

s/Jacquelyn D. Austin
Jacquelyn D. Austin
United States Magistrate Judge

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); see Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Robin L. Blume, Clerk
United States District Court
300 East Washington Street, Room 239
Greenville, South Carolina 29601

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).